

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1829 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

PARESH @ JINDO JADAVJI THESIA

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATHI for Mr. DIVYESH SEJPAL for Petitioner
MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 02/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner herein challenges the order of preventive detention dated 3rd February, 1998 made by the District Magistrate, Rajkot, under the powers conferred upon him under Sub-section 2 of Section 3 of the Gujarat

Prevention of Anti-Social Activities Act, 1985
[hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a habitual offender and for that matter, 'a dangerous person'. As many as 5 offences punishable under Chapters XVI and XVII of the Indian Penal Code and under Section 135 of the Bombay Police Act have been registered against the petitioner at the various places in the State. Three persons have given statements in respect of the nefarious activities of the petitioner and its adverse effect on public tranquillity and the even tempo of life. The petitioner's activities are, therefore, alleged to be prejudicial to the maintenance of public order.

4. The last of the offences registered against the petitioner is of 21st January, 1997. In respect of the said offence, the petitioner was arrested in the month of June, 1997 and was released on bail on 21st June, 1997. The statements of witnesses were recorded on 3rd June, 1997 and 5th June, 1997 respectively. However, the impugned order has been made on 3rd February, 1998 which was not executed till 7th November, 1998. The action taken against the petitioner is ex facie grossly belated. It appears that in respect of the last of the offences, petitioner's name was disclosed at a latter stage and was arrested in the month of June, 1997. However, after the month of June, 1997 till February, 1998, no action has been taken against the petitioner. It is submitted that in the month of April, 1998, a notification was issued and the petitioner was declared to be absconding. That should explain the delay in executing the impugned order of detention. However, no explanation has come forth in respect of the period spent after the petitioner's arrest and release on bail and the impugned order of detention.

5. In view of the prevailing judicial pronouncements, for the aforesaid unexplained delay, the petitioner's continued detention is not justified.

6. The petition is, therefore, allowed. The impugned order dated 3rd February, 1998; Annexure-A to the petition is quashed and set-aside. The petitioner, unless is required to be detained in some other case, be released forthwith.
